



DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0033204; PPWOCRADN0-PCU00RP14.R50000]

Native American Graves Protection and Repatriation Review Committee Finding

Regarding the Cultural Affiliation of Human Remains and Associated Funerary Objects

Removed From, and Adjacent to, Moundville Archeological Site (1TU500) Located in

Tuscaloosa County, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: On November 23, 2021, the Native American Graves Protection and Repatriation Review Committee (Review Committee) found, based on the information provided before and during its public meeting, that a cultural affiliation exists between the present-day Muskogean-speaking Indian Tribes and the earlier group connected to human remains and funerary objects excavated at, and adjacent to, the Moundville archeological site (1Tu500), in Tuscaloosa County, AL. The recommendations, findings, and actions in this notice are advisory only and are not binding on any person. Pursuant to the Native American Graves Protection and Repatriation Act (NAGPRA or the Act), the Review Committee is responsible for reviewing and making findings related to the identity or cultural affiliation of cultural items. The National Park Service is not responsible for the determinations in this notice.

ADDRESSES: The meeting transcript containing the Review Committee proceedings and deliberation for this finding are available online at www.nps.gov/subjects/nagpra/index.htm or upon an email request to the National NAGPRA Program (NAGPRA_Info@nps.gov).

FOR FURTHER INFORMATION CONTACT: Melanie O'Brien, Manager and Designated Federal Official, National NAGPRA Program, 1849 C Street NW, Washington, DC 20240, telephone (202) 354-2201, email NAGPRA_Info@nps.gov.

SUPPLEMENTARY INFORMATION: The Native American Graves Protection and Repatriation Review Committee (Review Committee) found that a cultural affiliation exists between the present-day Muskogean-speaking Indian Tribes and the earlier group connected to human remains and funerary objects excavated at, and adjacent to, the Moundville archeological site (1Tu500), in Tuscaloosa County, AL. The recommendations, findings, and actions in this notice are advisory only and are not binding on any person. Pursuant to the Native American Graves Protection and Repatriation Act (NAGPRA or the Act), the Review Committee is responsible for reviewing and making findings related to the identity or cultural affiliation of cultural items. 25 U.S.C. 3006(c)(3)(A).

These advisory findings do not necessarily represent the views of the National Park Service or Secretary of the Interior. The National Park Service and the Secretary of the Interior have not taken a position on these matters. The Review Committee established by Section 8 of the Act (25 U.S.C. 3006) is an advisory body governed by the Federal Advisory Committee Act. Under the Act, upon the request of any affected party, the Review Committee is responsible for reviewing and making findings related to the identity or cultural affiliation of cultural items. 25 U.S.C. 3006(c)(3)(A).

Background

Under the Act, “cultural affiliation” means that there is a relationship of shared group identity that can be reasonably traced between a present-day Indian Tribe and an identifiable earlier group. 25 U.S.C. 3001(2). Cultural affiliation of Native American human remains and associated funerary objects is established by compiling an inventory, based on information possessed by a museum or Federal agency and in consultation with Indian Tribes and Native Hawaiian organizations. 25 U.S.C. 3003. When cultural affiliation is not established in an inventory, then, upon request, Native American human remains and associated funerary objects must be expeditiously returned where a requesting Indian Tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon the following kinds of relevant information: geographical, kinship, biological, archeological, anthropological,

linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion. 25
U.S.C. 3005(a)(4).

Request for a finding

At its November 23, 2021, virtual public meeting, the Review Committee heard a request from the following affected parties for a finding of fact: The Choctaw Nation of Oklahoma, The Chickasaw Nation, Coushatta Tribe of Louisiana, The Muscogee (Creek) Nation, Seminole Tribe of Florida [previously listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)], and The Seminole Nation of Oklahoma, with support from the Jena Band of Choctaw Indians and the Alabama-Coushatta Tribe of Texas [previously listed as Alabama-Coushatta Tribes of Texas]. The question presented was whether the present-day Muskogean-speaking Indian Tribes are culturally affiliated with the human remains and funerary objects excavated at, and adjacent to, the Moundville archeological site (1TU500), in Tuscaloosa County, AL. The Review Committee considered the relevant information submitted by the requestors, which included the following types of evidence: linguistic, oral tradition, geographical, kinship, biological, archeological, historical, and anthropological.

During discussion, members of the Review Committee noted that the requestors had asked for a finding based upon a preponderance of the evidence and asked whether a finding of cultural affiliation by a preponderance of the evidence would differ from a finding by a reasonable basis. In response, attorneys from the Department's Office of the Solicitor stated that, in practice, preponderance of the evidence and reasonable basis are similar standards for determining whether the evidence leans slightly more one way than the other. The Review Committee noted several times that the University of Alabama did not have an opportunity to present information on this matter to the Review Committee. One member stated that the preponderance of the evidence means a weighing between two sides, and since the Review Committee had heard the tribal case but not the museum's case the reasonable basis standard was appropriate.

Finding of Fact

All six currently appointed Review Committee members participated in the fact finding. By a vote of five in favor and one abstention, the Review Committee found that, based on the evidence before it, there is a preponderance of the evidence for cultural affiliation between the human remains and funerary objects originating from, and adjacent to, the Moundville archeological site (1Tu500) and the present-day Muskogean-speaking Indian Tribes. The abstaining member requested, and the other members agreed, that a statement be appended to the finding. This statement is that the one abstaining member of the Review Committee found that, based on the evidence before the Review Committee, there is a reasonable basis for cultural affiliation between the human remains and funerary objects originating from, or adjacent to, the Moundville archeological site (1Tu500) and the present-day Muskogean-speaking Indian Tribes. The requesting, affected parties making a request for this finding are: The Choctaw Nation of Oklahoma, The Chickasaw Nation, Coushatta Tribe of Louisiana, The Muscogee (Creek) Nation, Seminole Tribe of Florida [previously listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)], and The Seminole Nation of Oklahoma, with support from the Jena Band of Choctaw Indians and the Alabama-Coushatta Tribe of Texas [previously listed as Alabama-Coushatta Tribes of Texas].

This finding was approved for publication by the Chair of the Review Committee, Francis P. McManamon.

Dated: January 26, 2022.

Melanie O'Brien,

Designated Federal Official,

Native American Graves Protection and Repatriation Review Committee.

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